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Municipal Tax Problems in Urban Development

Brief of
The Urban Development Institute (Ontario Division)
to
The Honourable John Parmenter Robarts, Q.C.,
Prime Minister of Ontario
December, 1962

URBAN DEVELOPMENT INSTITUTE
Ontario Division

MUNICIPAL TAX PROBLEMS IN URBAN DEVELOPMENT

BRIEF OF

THE URBAN DEVELOPMENT INSTITUTE (ONTARIO DIVISION)

TO

THE HONOURABLE JOHN PARMENTER ROBARTS, Q. C.,

PRIME MINISTER OF ONTARIO

Honourable Sir:

1. The Urban Development Institute (Ontario Division) is an association of land developers and consultants in the fields of subdivision, engineering and town planning in the Province of Ontario. Further information concerning the purposes for which the Institute was formed is attached as Appendix "A" of this submission. The Members of the Institute, among whom are some of the most experienced land developers, consulting, engineering and town planning firms in the Province, appreciate the opportunity to express their views to the Honourable the Prime Minister of Ontario because of the vital importance of the land development industry in the full realization of our Ontario heritage.

2. This submission deals with the prevention of a tax deficiency through urban development and will be presented under the following headings:

Statement of the Problem

The Objective Being Sought

The Cause of the Problem

Provincial Government Responsibility

The Justification for Fundamental Change

The Proposed Solution

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STATEMENT OF THE PROBLEM

3. When new plans of subdivision are proposed for particular Ontario municipalities, it is becoming increasingly common nowadays for a number of municipalities to take steps to ensure in advance that - in tax terms - the proposed urban development will pay for itself. The objective of such municipal action is to protect existing taxpayers from any added burden accruing from urban expansion. To achieve this end, the developer is being asked before construction begins, to guarantee EITHER or BOTH:

(a) That the assortment of developed properties will be wholly self-supporting

(b) That he will make up the difference to the municipal corporation.

4. This type of requirement upon developers has been expressed in various ways. Commonly, the form of agreement which is sought somewhat over-simplifies the issue, perhaps for convenience, and possibly also because its full ramifications may not be readily evident. A municipality may ask the developer:

(a) to achieve an average minimum assessment per dwelling unit of a stated amount including, in striking the average, the value of any new industrial or commercial construction for which he has been responsible;

(b) to erect dwelling units of sufficient value to carry the cost of services for themselves;

(c) to maintain throughout construction or to achieve at various stages of construction a specified residential-commercial assessment ratio (60-40, 50-50 or some similar arbitrary proportion);

(d) to undertake to make up any difference between school costs and the yield from school taxes attributable to the development.

5. The result of this system is to make adequate taxable capacity the prime goal of local authorities in land development. Other considerations of land use planning are likely to be set aside. Planning is confined to single municipalities and becomes "planning by assessment".

6. Measures designed to ensure adequate tax revenues on a continuing basis are of course distinct from and additional to action to meet the initial capital requirements of new developments through subdivision agreements. The position taken by the Urban Development Institute on the latter issue is summarized as Appendix "B" to this statement.

THE OBJECTIVE BEING SOUGHT

7. The Institute has many times demonstrated its interest in obtaining for the community the best possible conditions for urban development. It has submitted earlier briefs to the Government seeking improved planning legislation with the objective of producing maximum quality and stability in new developments consistent with market requirements. Specifically, in its "Brief to the Select Committee on the Review of the Municipal Act and Related Acts Including the Planning Act" (September, 1961) the Institute suggested three methods which, in various combinations, might provide the necessary solution. The present Brief concerns itself with one specific basic aspect of the problem.

8. The purpose of this submission is to seek the removal of a serious impediment to urban development - the creation of tax deficiencies. This impediment, when removed, would restore conditions under which desirable forms of development will go forward readily and will, if anything, be encouraged by the legislative framework. The Institute is anxious to see urban expansion which is properly planned, suitably contained and adequate to today's growth requirements. In searching for some way of eliminating the financial problem which threatens municipalities and leads them to place obstacles in the path of urban development undertakings, the Institute is looking for remedial measures which will have no undesirable side effects.

THE CAUSE OF THE PROBLEM

9. The developer has been faced with demands to ensure the continuing adequacy of the municipality's tax position because what were once closely inter-related requirements for residential, commercial and industrial land uses no longer need to find expression within a single

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local community and are not therefore likely to be contained within the bounds of a single municipality. Under the Ontario tax system, the taxable capacity appropriate to the service requirements of a municipality is produced through a normal balance among the component properties composing a local community. Where the use of land within the corporate boundaries of a single municipality is out of balance, taxable capacity is likewise distorted. A municipality should not be expected to be complacent about a pattern of land use which imposes a clearly excessive weight of taxation upon its property holders however desirable that pattern may be on other counts.

10. The reasons why the kind of property use affects the municipality's financial situation and the factors which have enabled formerly inter-dependent urban residential, commercial and industrial developments to become separated are summarized below.

11. The Province of Ontario in general requires realty taxes to be levied across the board at uniform rates. The recent development of a split mill rate and the much earlier existence of a separate school rate are notable exceptions. Similarly, all local municipalities are expected to impose supplementary levies upon business properties, calculated as uniform specified percentages of the ordinary real property taxes. Thus, while business properties must be taxed more heavily in Ontario than residential properties, they normally place less service demands upon the municipalities in which they are located than do the residential properties. Only residential properties generate demands for local schooling and for virtually all municipal health, welfare and recreational services. All kinds of properties make use of all remaining services. True, some minor service requirements do exist attributable largely to business properties. Expenditures on traffic regulation and those expenditures on public parking not recovered from the users are examples. In addition, other services are demanded by property holders as users of motor vehicles rather than as occupants of particular types of urban property. But the general point holds: residential properties generate far more municipal service requirements than land used for industry or commerce.

12. Within any broad category of real estate, the service demands of the more expensive properties are not likely to increase in proportion to the increase in their taxable value. Indeed, an inverse relationship may even apply. Therefore within any single class of urban property--residential, commercial, industrial--the more expensive developments are preferred from the municipal treasurer's viewpoint.

13. Departures from the normal assortment of urban properties will improve the municipality's financial position where the proportion is weighted towards industrial or commercial uses or where, within a broad class, the weighting is towards high-valued residential holdings.

14. The ability of urban developments to scatter into the countryside results directly from shorter working day and work week, clear roads the year round, the mass marketing of automobiles, rural electrification and the availability of water pumps, septic tanks and other equipment permitting properties to be serviced individually with water and sewage facilities.

15. An exodus to the country has become increasingly attractive to urban property users. The shopping centre can more easily be located on the edge of an urban area or beyond it. Wholesalers who used to be downtown now often prefer to be highway-based. The manufacturer who wants or requires a one-storey factory or who needs considerable storage space may be better off outside the city. A manufacturer can prepare for future expansion by purchasing a large tract of land in a rural location. The two-car family and the executive wanting riding horses, a swimming pool or a trout stream are attracted to rural locations. A family may content itself with an apartment in town in order to maintain a cottage or farm property in another municipality.

16. The rapid rate of urban growth in the years since World War II has favoured the larger scale urban and suburban developments. This type of development in turn fosters greater scatteration than results from slower, smaller urban developments. Government stimulation of new housing construction has reinforced the trend. Specifically also the C. M. H. C. method of direct assistance or guarantees commonly applicable to the financing of speculative building and to the purchase of new houses has facilitated the volume construction and sale of new houses on large tracts of land by comparison with the turnover of older dwellings or the building of houses one at a time on vacant lots within previously built-up areas.

17. The extent of the municipal tax problem arising through disparities among urban developments is of course affected by the sizes and shapes of the areas over which services are provided and taxes are levied. If the boundaries of urban municipalities are widely drawn the differences in taxable capacity between one municipality and another are thereby held down. Again, when area charges are worked out and levied throughout those territories where special services are supplied the weight

of such taxation is at least related to the benefits received, whether or not it happens to be proportioned to taxable capacity.

18. Because of its bearing on these two related problems of taxable capacity and tax equity, a brief description of local government taxing jurisdictions in Ontario has been prepared and is presented as Appendix "C".

PROVINCIAL GOVERNMENT RESPONSIBILITY

19. In Canada, the Provincial Government has sole responsibility for the institution and maintenance of a satisfactory system of local government. While it is expected that the units of local government which are set up will be given a substantial measure of autonomy, the responsibility of the province remains clear: to maintain the size and types of units which are required by the functions entrusted to the local level of government and to give the local authorities access to revenues appropriate in form and amount to the responsibilities they exercise.

20. Relating this broad overall view of local government to the specific problem before us, the Province of Ontario must be expected, we suggest, to take the initiative in shrinking the present difficulties to manageable proportions or, if possible, in overcoming them altogether. To accomplish that purpose, the Provincial Government has, as we see it, to make a selection from among the following forms of remedial action:

(a) revision of the existing municipal tax system,

(b) reinforcement of local revenue raising with provincial payments which are so ordered as to offset the limitations of local sources,

(c) enactment of changes in local government boundaries or structure calculated to reduce the extent of the tax problem,

(d) removal of certain functions from the sphere of local government responsibility.

21. In considering the choices before it, the Province would, we believe, be able to pool and re-distribute revenues more readily than to unify municipal services over larger areas. The easiest area to delineate for the pooling of revenues is the area of the Province itself. The simplest

method of re-distribution is to provide money through grants to local governments which reduce their dependence upon their own revenue sources.

22. Through changes in its grants system the Province has already done something to alleviate the problem. If this method is to be continued and extended, however, we recognize that there may be a fear of a loss of local autonomy, especially under particular forms of grant assistance.

23. It is suggested, therefore, that the Province accept as its objective the minimum reliance upon grants or similar transfer payments consistent with enabling local government to provide an acceptable level of public service without local tax hardship.

24. If this approach is to be adopted and the desired objective accomplished, the Province, we believe, must find ways of improving the use of local tax sources. It must re-examine and be prepared to realign periodically the division of service responsibilities between the provincial and municipal levels of government. From time to time as changing conditions warrant, it must undertake to alter the territorial jurisdiction of municipal units including counties. It must be prepared to change the areas of jurisdiction from those now existing for provision of particular services and for specified revenue-raising purposes, including the transfer of certain functions from lower to second-tier units. It must be prepared to create new counties in northern Ontario and new metropolitan municipalities wherever they may be needed.

THE JUSTIFICATION FOR FUNDAMENTAL CHANGE

25. There are, in the opinion of the Urban Development Institute, good reasons for the Province of Ontario being prepared to introduce the sweeping changes which it is suggested will be needed to meet the present problem. Some of the main arguments follow:

(a) For a number of years, experts on municipal finance have expressed concern about the mounting competition to attract industrial, commercial and high-value residential properties and, by the same token, to keep out other types of urban development. The detraction thereby from proper community planning has also been stressed. The need to consider pooling

and redistributing tax funds for these reasons was forcefully expressed as long ago as 1956 in a key address before the Annual Conference of the Canadian Federation of Mayors and Municipalities in Hamilton.

(b) When the Municipality of Metropolitan Winnipeg was established, the legislation made provision for the pooling throughout the metropolitan municipality of a sizeable proportion of the tax revenues accruing from business. The legislation contemplated the collection and redistribution of as much as the entire business taxes together with a substantial portion of the ordinary property taxes paid by industrial and commercial property holders. The objective was to avoid shortcomings seen in the Metro Toronto legislation.

(c) The Province of Ontario is doubtless aware, also, of the extended consideration which has been given to the problem by the Province of Alberta and of the approach to it in the present method of financing local hospital and school services. In relation to provincially-equalized property assessments, the local authorities there are expected to levy four mills for hospital purposes and thirty-two mills for school purposes, with the Province taking responsibility for the remaining requirements.

(d) The Province of Ontario has already recognized the need to pool the financial resources of groups of municipalities in the system of grants to mining municipalities which was set up more than ten years ago.

(e) The re-organization of the municipal tax structure would give reasonably constant municipal revenue throughout the Province which would give industry more freedom to choose its location and therefore the task of the Province in attracting new industry would be made easier.

THE PROPOSED SOLUTION

26. The Institute considers that the solving of the urban development tax problem is urgent. Against the background of information and opinion presented so far, the Province of Ontario is, therefore, respectfully requested to take the following immediate steps:

(a) That legislation be passed to provide for the pooling and redistribution to municipalities on a per capita or suitably modified per capita basis of the entire receipts from the municipal business taxes plus an appropriate proportion of the ordinary real property taxes paid by commercial and industrial properties. The amount to be pooled should represent that part of the taxes derived from these properties which is in excess of the funds needed to furnish them with services on the same level as other properties in the same municipality.

(b) That the tax revenues to be redistributed in this manner be pooled and re-apportioned either province-wide or over sufficiently large regions to ensure something approximating a natural balance among the various types of urban properties contained within any single jurisdiction.

(c) That, in making the pooled revenues available to municipalities the funds be apportioned between counties and local municipalities (or Metro and its area municipalities) according to a careful estimate of the relative share of financial responsibility for local schooling, health, welfare and recreational services met by each level of local government.

(d) That the provisions for the split mill rate now contained in the unconditional and school tax assistance grants legislation in due course be terminated.

Respectfully submitted,

Toronto, Ontario,
December, 1962

D. G. MacDonald
President

APPENDIX "A"

THE URBAN DEVELOPMENT INSTITUTE

The Urban Development Institute (Ontario Division) is an association of individuals and companies actively engaged in land development and re-development in the Province of Ontario. The Institute was formed in 1957 as a means of establishing a recognized channel of communication between land developers and Municipal and other levels of government with whom the land development industry shares a desire to see better planned communities and an improvement in the Canadian residential environment.

In addition to land developers, and in order to be more representative of all firms and companies engaged in land development, the Institute accepts as "Associate Members" certain selected firms in the fields of urban development engineering and town planning. Thus in seeking closer co-operation with various government boards, committees and agencies in matters affecting land development, the Institute is able to offer the benefits of the combined experience of its Members.

The Institute maintains a Central Office in Toronto, which is organized as a clearing house of information to the Membership, and acts as a focal point between Members of the Institute and officials of all levels of government.

STATEMENT OF POLICY

In March, 1960, the Urban Development Institute (Ontario Division) received its Provincial Charter as a non-profit organization, having the following aims and objectives:

1. TO PROMOTE well-planned communities by encouraging the reasonable and economic use of land.

2. TO PROMOTE efficiency and a high standard of ethics among persons and corporations engaged in land assembly and development.

3. TO PROMOTE understanding and co-operation between persons and corporations engaged in land assembly and development and municipal planning and other governmental authorities and agencies.

4. TO PROMOTE the availability of building lots at the lowest possible cost to the public.

5. TO PROMOTE revisions in the tax structure so that land alone will not be required to produce the revenue necessary for educational and social services.

APPENDIX "B"

CAPITAL OBLIGATIONS PLACED UPON DEVELOPERS THROUGH SUBDIVISION AGREEMENTS

1. Particular subdivision agreements of recent years have made developers responsible for:

(a) the installation of physical services within the subdivision or a capital payment to cover the installation cost;

(b) the bringing of services to the subdivision (including any needed enlargement of water pumping and purification or sewerage treatment facilities required to serve the new subdivision) or a capital payment equal to these costs;

(c) the expenses incurred by the municipality in planning and preparing for the particular subdivision development, including periodic inspection during the course of construction;

(d) the deeding of land to the municipality for roads and for parks or other public purposes or cash contributions equivalent to the expected land donations;

(e) the payment of cash imposts to meet other specified or unspecified plant requirements, notably in support of needed additional school accommodation.

2. Some years ago, when the growth of communities in the older parts of Canada was expected to be slow, it used to be settled practice to absorb all or a sizeable proportion of needed service extensions through levies against the municipality's general rate. Where the new area was made to pay anything extra, it was asked to meet only a proportion of certain expenditures under local improvement legislation. Today, in fast-growing Ontario municipalities, all or a very large proportion of the cost is commonly placed upon the developer in the first instance, and, in consequence, becomes part of the capital cost of the property when sold.

3. In an earlier day also, expenditures on water and sewer, the opening of streets, laying of sidewalks, preparation of boulevards and installation of street lighting were ordinarily held to a minimum by postponing all but the most essential installations and withholding the remainder for later financing as local improvements to be carried out on petition by a majority of the property holders on the street. Frequently now the developer is asked to provide these amenities in full and on an elaborate scale. As one example, it is quite commonly assumed today that from the beginning all roads within a subdivision must be paved.

4. At first, subdivision agreements were tolerated by the Ontario provincial authorities but went unrecognized. Indeed, doubt existed as to their legality.

5. The earliest statutory reference to the subdivision agreement in Ontario was an oblique one, contained in a 1958 amendment to the Municipal Act. The object was to regulate the expenditure of money procured from cash imposts upon developers. The next year, however, the Planning Act acknowledged the existence of subdivision agreements and gave the responsible Minister discretionary authority over their content.

6. The Urban Development Institute recognizes that the recent rate of growth has encouraged and perhaps even made it essential for some municipalities to place a greater proportion of the cost of urban site preparation upon the newly developed areas themselves. The subdivision agreement has become a settled method of doing so.

7. At the same time, U. D. I. believes that the terms of subdivision agreements need to be spelled out in legislation in order that the developer will be faced only with predictable and reasonable requirements on prospective projects. The principles, we suggest, to be observed in drafting appropriate legislation would include the following:

(a) The developer should be required only to provide or pay for those physical assets of a capital nature which are required to bring the developed area to a condition suitable for initial occupancy.

(b) The extent of site preparation imposed upon the developer should be held to a level which is appropriate to the purpose and quality of the urban development in question.

(c) Any off-site capital expenditures placed upon the developer should be limited to the cost of bringing necessary services to the subdivision, possibly including enlargement of plant facilities for community water supply and sanitary sewage disposal.

(d) Where the developer agrees to proceed with a project involving capital expenditures which are designed to benefit other areas to be developed later, provision should be made for refunding of these added outlays when the other developments go forward.

(e) Land donations should be held to a reasonable level in amount and location and if such requirements are commuted to a cash payment the amount should be set according to the value of land prior to the installation of services.

(f) No cash imposts should be permitted for unsettled or undisclosed purposes or for objects not specified above.

APPENDIX "C"

LOCAL GOVERNMENT TAXING JURISDICTIONS IN ONTARIO.

1. Throughout southern Ontario, a two-tier municipal structure has existed for well over a century. The upper tier is, of course, the county. The lower tier includes most towns and all villages and townships situated within each county. All cities and seven towns are separated from the administrative counties and hence are outside the two level arrangement.

2. The sizes and shapes of the counties have remained virtually unaltered for many years and, as a result, many are too small and most fail to conform with natural economic or trading areas. Along the lakefront, the boundaries were marked out when a series of north-south trading routes were important in a way that no longer applies. Many of the local municipalities are likewise inadequate in size and, despite major enlargements by annexation or amalgamation, much urban spill-over remains within fragmented or rural jurisdiction.

3. The functions performed by counties are comparatively limited. In the field of the social services, they deal with particular welfare services to the young (through Children's Aid Societies) and to the aged and they have concurrent rights in the field of community recreation. The boundaries of health units, where they exist, may or may not coincide with the county. Within the areas of mutual jurisdiction, counties act as tax collectors for health units.

4. The problem of the unequal financial capacities of municipalities is lessened where particular services are provided on a pooled basis over a larger area than a single municipality and paid for by the municipal units or areas concerned on something approaching an ability-to-pay basis. Such is the case, for instance, with some high school districts. The same is true of health units, while the system of sub-urban road financing produces a somewhat similar result. Further examples of inter-municipal service arrangements include conservation authorities and joint water or sewer systems managed or assisted by the Ontario Water Resources Commission.

5. Important also is the converse tendency to furnish some services over areas smaller than a single incorporated municipality. In such instances, the effect may either be to ease or accentuate the problem of municipal financing, depending upon the type of service and the nature of the development--urban, rural or mixed--throughout the area concerned. One objective in creating service areas which are smaller in size than the incorporated municipalities in which they are situated has been to make extra urban services available within the confines of built-up areas. Police villages provide one prime example. They serve as vehicles for urban hydro, improved roads, sidewalks and street lighting, local parks, fire and police protection, community water and sewer services and so forth. A difficulty arises, however, when the urban growth overflows the police village boundaries. With police villages, as with incorporated municipalities, boundary extensions usually lag far behind urban growth.

6. In an increasing number of instances, additional services are being made available in urbanizing portions of Ontario townships without forming a police village. The development of such special areas permits great flexibility in the setting of suitable boundaries both for furnishing and charging the cost of services. The tendency, however, is to fix boundaries almost entirely on the basis of service requirements and with little or no concern as to taxable capacity. Among the operating services provided on an area basis in urbanizing townships the following are most common: community water supply, sanitary and storm sewerage systems, fire and police protection, street lighting, garbage collection and disposal, snow removal and bus services. All these municipal services can be provided under existing general legislation without utilizing the police village arrangement.

7. The most important service operating within territorial boundaries smaller than a single municipality is school services, usually elementary. The reason here is different. Grant inducements notwithstanding, small school sections continue their independent existence rather than accept the cost of improving services and, for some, of pooling tax resources with poorer neighbours. Within a township, the retention of school jurisdiction under the old school sections or even the existence of newer school areas which are less than township-wide can materially intensify the problem of municipal financing facing local authorities as the result of the current dispersal of urban developments.

8. Where services are provided on something less than a municipal unit basis, the requirements may be determined by the location of residential properties, commercial properties or both. For instance, the demand factor back of school services, health services and, to a considerable extent, of parks is residential. The need for community water and sewer systems, fire and policing, improved roads and other such services is determined on the other hand by expanding urbanization, both residential and commercial. Finally, where public parking is provided at municipal expense, the demand is probably largely commercial.

9. In northern Ontario, the position differs from that in the south in a number of ways. There is no upper tier municipality to take the responsibility for a variety of municipal functions over a larger area. In its place, the services are either being supplied by the Province or are being furnished through an ad hoc authority covering all or part of two or more municipalities. The tendency for urban dispersal is also more restricted due to the larger place of extractive industries in the northern economy and the comparative lack of extended road networks and rural electrification, both of which in the south minimize the disadvantages of moving to the country.